IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 14753 of 2004

Between:

S.A.T.Rajesh, s/o Tatacharyulu,
r/o Door No.8-20(4), Lawyerpet, Ongole, Prakasam District.

... PETITIONER

AND

1. The Chief Executive Officer, Rythu Bazar, o/o The Commissioner and Director of Marketing, Government of Andhra Pradesh, Hyderabad.
2. The Joint Collector (Marketing) Ongole, Prakasam District.
3. Kum.E.Fathima, Estate Officer,
   Rythu Bazar, Saibaba Temple, Ongole, Prakasam District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent in issuing the proceedings No.501/B/2004, dt.31-07-2004 in terminating the services of the petitioner from the post of Estate Officer, Rythu Bazar, Saibaba Temple, Ongole and appointing the 3rd respondent in his place is illegal, arbitrary erroneous, highhanded and violative of the cardinal principles of law and principles of natural justice and also violative of Article 14 and 300A of Constitution of India and consequently direct the respondents to continue the petitioner as Estate Officer, Rythu Bazar, Saibaba Temple, Ongole or at any other place where the vacancy is available.

Counsel for the Petitioner: MR.Y.V.RAVI PRASAD

Counsel for the Respondent No.1 and 2: GP FOR AGRICULTURE

Counsel for Respondent No.3: None

The Court at the admission stage made the following:

1.

The petitioner was appointed as an Estate Officer in the Rythu Bazar, Saibaba Temple, Ongole through the proceedings of the Collector, Ongole dated 23-10-2002 after the process of selection from among the eligible candidates who made applications in pursuance of the call made by the Collector, Ongole on a consolidated pay of Rs.3,000/- per month. The petitioner took charge and worked as an Estate Officer of the Rythu Bazar, Saibaba Temple, Ongole. The following are the duties of an Estate Officer as mentioned in the appointment order dated 23-10-2002:

1. The amount received for maintenance of Rythu Bazar will be kept in a local Bank and the Estate Officers of Rythu Bazars concerned will operate the accounts.

2. The monthly remuneration of the Estate Officer could be met from the funds allotted to each Rythu Bazar. The Estate Officer shall maintain/render proper account for all receipts and payments.

3. The weighing scales shall be supplied by the Estate Officers, to the farmers coming to Rythu Bazars daily in the morning and taken back in the evening.

4. The Estate Officer and the Asst. Director of Marketing or any other officer nominated by the Collector, along with two or three vegetable growing farmers that came to the Rythu Bazar, shall discuss and fix the price for the day not which the vegetables could be sold based on the local wholesale and retail price furnished by the Asst. Director of Marketing, Ongole or local Market Committee.

The formula for fixing the price is that the wholesale price prevailing at the local market + 25%. The prices of the vegetables so fixed shall be prominently displayed at important points in the Rythu Bazar.

5. The Estate Officer shall maintain all accounts about the arrivals, sales, prices at the Rythu Bazar and local market and furnish them to the Director of Marketing, Andhra Pradesh, Hyderabad and Joint Collector in the prescribed proforma.

6. They shall prepare the weekly reports in the prescribed proformas and put up to the Joint Collector, Ongole through the Asst. Director of Marketing, Ongole for onward submission to the

Director of Marketing, Andhra Pradesh, Hyderabad on every Friday by FAX and also by post.

7. They should implement the orders issued by the Government of Andhra Pradesh from time to time on successful running of the Rythu Bazars.

2. The petitioner is a post-graduate in Commerce and the duties entrusted to him mostly relate to commerce and accounts. On 31-7-2004 t he second respondent served an order of termination on the petitioner appointing the third respondent in his place by mentioning that he was terminated from service with a view to appoint Horticulture Graduate to use the services of Horticulture Graduate as a Horticulture Consultant-cum-Estate Officer. No reasons are assigned for termination of the services of the petitioner. The second respondent acted at the dictates of the busy bodies and issued the impugned order making the petitioner out of employment. The petitioner therefore approached this Court seeking to declare that the action of the second respondent in issuing the termination order dated 31-7-2004 as illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India and consequently to direct the respondents to continue him as an Estate Officer, Rythu Bazar, Saibaba Temple, Ongole or at any other place where the vacancy is available.

3. The second respondent filed a counter-affidavit resisting the writ petition and it reads as follows:

4. The Commissioner and Director of Marketing, Government of Andhra Pradesh issued instructions through the letter dated 6-7-2004 to remove the retired government servants at Rythu Bazars and appoint unemployed Agriculture/Horticulture Graduates. Accordingly, through the proceedings dated 31-7-2004, orders were issued appointing the third respondent who previously worked as Horticulture Consultant, Ongole, as an Estate Officer-cum-Horticulture Consultant, Saibaba Temple, Ongole for a period of eleven (11) months on contract basis with a consolidated salary of Rs.3,000/- per month, by removing the petitioner from that post. The third respondent assumed charge to the post of Estate Officer as the

petitioner refused to handover the charge. Similar appointments were also made in respect of other Rythu Bazars at Kandukuru. The petitioner misused the office telephone at Rythu Bazar. The Assistant Director (Marketing), Ongole pointed out that the petitioner misused the telephone. A memo was issued to the petitioner on 25-7-2003 at 9-00 a.m. When the Assistant Director of Marketing, Ongole while proceeding to Agricultural Marketing Committee, Darsi for person-in-charge work and annual inspection of the market committee, the petitioner entered into his room in an angry mood and threw an explanation paper on the face of the Assistant Director and left the room. The Assistant Director of Marketing asked the petitioner to furnish the datewise telephone call particulars. The petitioner retorted in an angry mood and refused to furnish the particulars. He challenged the Assistant Director (Marketing), Ongole in filthy language and left the room. On 26-7-2003 the petitioner was directed to furnish the datewise telephone call particulars and the explanation submitted by him is not convincing. The Assistant Director gave a report to the second respondent in writing about the issue. As per the instructions of the Government through G.O.Ms.No.254, Agriculture and Cooperation (Marketing II) Department dated 27-9-2003, the Horticulture Consultants were engaged at Rythu Bazars by replacing the Estate Officers at Ongole and Kandukuru. The Estate Officers were appointed purely on contract basis with a condition that their services can be extended or terminated without any notice depending on the result of their performance. Keeping in view the orders of the Government for utilizing the services of the Agricultural/Horticultural Graduates as Horticulture Consultants also, as a measure of economy the petitioner has been removed from duties. Since the posts of Estate Officers at the Rythu Bazar at Saibaba Temple, Ongole and Kandukur were filled with Horticulture Graduates for utilizing their services as Horticulture Consultants, there is no possibility to continue the petitioner in the post of Estate Officer at the Rythu Bazar, Saibaba Temple, Ongole. The writ petition is liable to be dismissed.

5. The petitioner is contending that though he is a post-graduate, he was appointed as an Estate Officer after due selection and he was terminated from service to accommodate the third respondent. In the Rythu Bazar the transactions will be commerce in nature, therefore, the petitioner being a commerce graduate can discharge his duties effectively than Agriculture or Horticulture Graduate, therefore, his removal from the post of Estate Officer is arbitrary and illegal. The second respondent contends that in pursuance of the instructions of the Government through the letter dated 6-7-2004 sent to all the Collectors and Joint Collectors, the petitioner was terminated and a Horticulture Graduate was appointed to avail the services of the Estate Officer as Horticulture Consultant also.

6. The letter of the Commissioner and Director of Marketing, Government of Andhra Pradesh dated 6-7-2004 reads as follows:

> The Government vide reference first cited has issued orders to remove the older Estate Officers of the Rythu Bazars and to appoint the unemployed Agriculture/Horticulrure Graduates in their place and to send compliance report. But, some of the Joint Collectors have not taken steps to remove the older Estate Officers of Rythu Bazars. Further, I am to inform that the Government vide reference third cited have issued orders to remove retired Government servants, if appointed on contract basis, therefore, the Collectors/Joint Collectors are requested that if the services of the retired officers are essential, then they may send the proposals to this office immediately with due justification so as to take permission of the Government.

7. The letter of the Commissioner, Marketing dated 6-7-2004 indicates that the Government issued instructions to remove the retired persons who are working as Estate Officers. The impugned order indicates that the petitioner was terminated to appoint Horticulture Graduate for utilization of the services of such candidate as Estate Officer and Horticulture Consultant.

8. Paragraph No.3 of the order of appointment of the petitioner dated 23-10-2002 reads as follows:

The Hon'ble Chief Minister, Government of Andhra Pradesh, Hyderabad through his visit to the Rythu Bazar, Saibaba Temple, Ongole on 14-9-2002 directed the Collector and the District Magistrate, Ongole to remove the Estate Officer working and replace the suitable young graduates, as such Sri R.V. Subba Rao working at the Saibaba Temple, Ongole is hereby removed from the date of relief.

Consequent on his removal, Sri S.A.T. Rajesh, M.Com., native of Ongole, who is selected by the Committee is hereby appointed as Estate Officer, Rythu Bazar, Saibaba Temple, Ongole.

9. The appointment of the petitioner was made purely on contract basis on a consolidated remuneration of Rs.3,000/- per month. His services can be extended or terminated at any time without any notice depending upon the result of his performance. The petitioner being an employee appointed on contract basis has no right to plead that he should be given a reasonable opportunity before termination of his service. There are instructions from the Commissioner and Director of Marketing, Government of Andhra Pradesh, Hyderabad to appoint the unemployed Horticulture Graduates as Estate Officers. Accordingly, the petitioner was replaced by an unemployed Horticulture Graduate. The instructions were issued by the Commissioner and Director of Marketing to all the Collectors and Joint Collectors in the State to appoint unemployed Agriculture/Horticulture Graduates as Estate Officers of Rythu Bazars. It is a policy decision taken at the Government level and the second respondent has no option except to follow the instructions given by the Government. The petitioner therefore cannot question the order of removal on the ground that the contract period was not over.

10. It is not clear from the record as to whether the Joint Collector replaced all the Estate Officers in Prakasam District with the Horticulture or Agriculture Graduates and whether they are continuing the other graduates as Estate Officers, who are junior to the petitioner.

11. In the event of continuation of the graduates other than Agriculture/Horticulture Graduates as Estate Officers, who are juniors to the petitioner, the second respondent shall consider the case of the

petitioner for appointment as Estate Officer in one of the Rythu Bazars, till all the officers are replaced with Agriculture/Horticulture Graduates, as per the instructions of the Government. With the above directions, the writ petition is dismissed.

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(Dr.G. Yethirajulu, J)

14th October 2004

svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Chief Executive Officer, Rythu Bazar, o/o The Commissioner and Director of Marketing, Government of Andhra Pradesh, Hyderabad.
2. The Joint Collector (Marketing) Ongole, Prakasam District.
3. Kum.E.Fathima, Estate Officer,
   Rythu Bazar, Saibaba Temple, Ongole, Prakasam District.
4. The Government Pleader for Agriculture, High Court of A.P., Hyderabad
5. Mr.Y.V. Ravi Prasad, Advocate (OPUC)
6. 2 CD copies